



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10
1200 Sixth Avenue
Seattle, WA 98101

Correspondence
Wet/Low
RECEIVED

Reply To
Attn Of: ECO-087

July 21, 2003

AUG 25 2003

**OREGON OPERATIONS OFFICE
EPA-REGION 10**

The Honorable Doc Hastings
House of Representatives
1323 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Hastings:

Thank you for your letter of March 21, 2003, regarding the Total Maximum Daily Load (TMDL) for temperature for the Columbia and Lower Snake River Mainstem that Region 10 - U.S. Environmental Protection Agency (U.S. EPA), is developing in coordination with the states of Idaho, Oregon, and Washington, and Columbia Basin Tribes. Although U.S. EPA has prepared a draft of this TMDL, U.S. EPA has not yet proposed the TMDL for public comment. Therefore, it is still a work in progress. This letter and the enclosure provide a response to the important issues that you raise in your letter.

This effort to develop a TMDL for the Columbia and Lower Snake Rivers is similar to many other TMDL efforts currently underway throughout the Region and the Nation. A TMDL is a tool created by the Clean Water Act (CWA) to achieve the water quality goals already established by state and tribal water quality standards. Thus, the result of this TMDL effort and others would not be the establishment of water quality goals. Rather, water quality goals for the Columbia and Lower Snake mainstem and other rivers and streams have already been established by state and tribal water quality standards.

Under the Section 303(c)(2)(A) of the Clean Water Act, water quality standards include designated uses and water quality criteria to protect those designated uses. As required by Section 303(d)(1)(C) of the Clean Water Act, this draft TMDL is being calculated at a level necessary to implement the applicable water quality standards, which in this case were adopted as state law by the States of Washington, Oregon, and Idaho. These standards include water quality criteria for temperature, which are based on the natural temperatures of the Columbia and Snake Rivers. Those water quality criteria establish the water quality goal for this draft TMDL.

This draft TMDL is not an endorsement of dam removal. The TMDL analysis does simulate water temperature in the absence of human activities in the rivers as an attempt to quantify the natural temperature component of the states' water quality criteria as required by the CWA and U.S. EPA regulations. I agree with you that there are questions about the attainability of these water quality standards given the presence of the dams and the apparent lack of feasible alternatives to improve temperature sufficiently to achieve state water quality standards. Legal questions have also been raised concerning the applicable requirements of the CWA and U.S. EPA's implementing regulations.

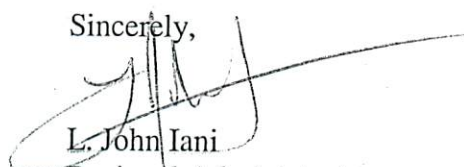
Working with the three states and the Federal Columbia River Power System (FCRPS) Action Agencies, U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, and Bonneville Power Administration, U.S. EPA is currently engaged in an intensive effort to address these questions at the executive and staff level. In coordination with all the interested parties, U.S. EPA is working with the states and the other Federal agencies to identify feasible management options for improving temperature. Concurrent with that effort is the commitment to evaluate the need to revise the water quality standards upon which the draft TMDL is based should the temperature improvements contemplated by those water quality standards prove to be unattainable. U.S. EPA is also discussing with the other Federal agencies the legal issues that have been raised.

If the water quality standards are not attainable, the States may opt to revise them by conducting a use attainability analysis pursuant to 40 CFR 131.10(g)(4). This regulation allows modification of uses in state water quality standards when "[d]ams, diversions or other types of hydrologic modification preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modifications in a way that would result in the attainment of the use." The identification of the natural background condition, in this case for temperature, is a logical first step in this process. The States are working to clearly articulate and coordinate their internal management procedures in order to provide the FCRPS Action Agencies with coordinated decisions regarding development of the TMDL and implementation of it once it is finalized.

Water temperature in the Columbia and Snake rivers is a long-standing, unresolved issue in the Pacific Northwest and has been the subject of time consuming and expensive litigation. I believe that if we leave this issue unresolved it will continue to spawn contention and litigation in the Region. Therefore, we are working hard in U.S. EPA-Region 10 with the States, Tribes, Federal Action Agencies, National Marine Fisheries Service and U. S. Fish and Wildlife Service to resolve this issue within the frame work of the Clean Water Act in a manner that balances ecosystem recovery needs with economic, social and cultural sustainability of the Northwest Region. It is not an easy balance to achieve and the debate is not without contention and concern on the part of the affected parties. I greatly appreciate your concern and assistance in moving this effort forward. I have included specific responses to each of the four questions in your letter in the enclosure.

Please contact me if you would like to discuss these important issues further. I can be reached at (206) 553-1234 and Randy Smith, Director of the Region 10 Office of Water, can be reached at (206) 553-1261.

Sincerely,



L. John Iani
Regional Administrator

Enclosure

cc: Tom Fitzsimmons, Director, Washington Department of Ecology
Stephanie Hallock, Director, Oregon Department of Environmental Quality
Steve Allred, Director, Idaho Department of Environmental Quality

If the water quality standards are not attainable, the States may opt to revise them by conducting a use attainability analysis pursuant to 40 CFR 131.10(g)(4). This regulation allows modification of uses in state water quality standards when "dams, diversions or other types of hydrologic modification preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modifications in a way that would result in the attainment of the use." The identification of the natural background condition, in this case for temperature, is a logical first step in this process. The States are working to clearly articulate and coordinate their internal management procedures in order to provide the Federal Action Agencies (FAA) with coordinated decisions regarding development of the TMDL and implementation of it once it is finalized.

Water temperature in the Columbia and Snake Rivers is a long-standing unresolved issue in the Pacific Northwest, and has been the subject of time-consuming and expensive litigation. I believe that if we leave this issue unresolved it will continue to spawn contention and litigation in the Region. Therefore, we are working hard in U.S. EPA Region 10 with the States, Tribes, FAA, National Marine Fisheries Service and U. S. Fish and Wildlife Service to resolve this issue within the frame work of the CWA in a manner that balances ecosystem recovery needs with economic, social and cultural sustain ability of the Northwest Region. It is not an easy balance to achieve and the debate is not without contention and concern on the part of the affected parties. I greatly appreciate your concern and assistance in moving this effort forward. I have included specific responses to each of the four questions in your letter in the enclosure.

Please contact me if you would like to discuss these important issues further. I can be reached at (206) 553-1234, and Randy Smith, Director of the Region 10 Office of Water, can be reached at (206) 553-1261.

Sincerely,

L. John Iani
Regional Administrator

Enclosure

cc: Tom Fitzsimmons, Director, Washington Department of Ecology
Stephanie Hallock, Director, Oregon Department of Environmental Quality
Steve Allred, Director, Idaho Department of Environmental Quality

bcc:

Ron Kreizenbeck; Randy Smith; Michelle Pirzadeh, Ben Grumbles, OW, Tracy Mehan, OW, Geoff Grubbs, OW, Lisa Jaeger, OGC

CONCURRENCES					
NAME:	M. SOSCIA	J. IRIARTE	M. PIRZADEH		
INITIALS:	MS	JIP	K. P. Pirzadeh		
DATE:	7/8/03	7/10/03	7/11/03		

F/JEAN/WORK/ECO. ADMIN/IO/MARY LOU/HASTINGS.VERSIONFINAL 7/10/03

please see Mary Lou's mail behind this page.